

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

City of Chicago
People of Cook County

Petition for Emergency Rulemaking
and Expedited Investigation

Patrick Quinn

Petition to the Members of the Illinois
Commerce Commission Pursuant to
Section 5-145(b) of the Illinois
Administrative Procedures Act

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Docket No. 00-0789

Docket No. 01-0046

Direct Testimony and Exhibits
of
Roger D. Colton

OFFICIAL FILE

I.C.C. DOCKET NO. 00-0789/01-0046
CC & A O Exhibit No. 1.0 late filed

Witness _____

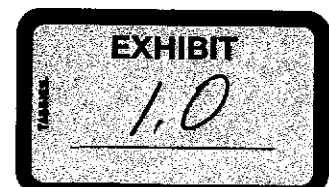
Date 4-25-01 Reporter _____

On Behalf of

Cook County State's Attorney's Office
Chicago, Illinois

OFFER OF PROOF

March 2001



1 **Q. PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD.**

2 A. My name is Roger D. Colton. My address is 34 Warwick Road, Belmont, Massachusetts
3 02478.

4
5 **Q. FOR WHOM DO YOU WORK AND IN WHAT CAPACITY?**

6 A. I am a principal in the firm of Fisher, Sheehan & Colton, Public Finance and General
7 Economics (FSC). I provide technical assistance to a variety of public utilities, state
8 agencies and consumer organizations on rate and customer service issues involving
9 telephone, water/sewer, natural gas and electric utilities.

10
11 **Q. FOR WHOM ARE YOU TESTIFYING IN THIS PROCEEDING?**

12 A. I am testifying on behalf of the Cook County State's Attorney's Office.
13

14 **Q. HAVE YOU EVER PREVIOUSLY TESTIFIED BEFORE THIS OR ANY OTHER**
15 **REGULATORY COMMISSION?**

16 A. While I have not previously testified before the Illinois Commission, I regularly appear
17 before regulatory commissions on utility rate and customer service issues.

18
19 **Q. HAVE YOU EVER PUBLISHED ON UTILITY RATE AND CUSTOMER**
20 **SERVICE ISSUES?**

21 A. Yes. A list of my publications is set forth in Attachment A. Attachment A also lists my
22 appearances as a witness.

23
24 **Q. HAVE YOU HAD OCCASION TO ADDRESS ISSUES RELATING TO THE FLY-**
25 **UP OF HOME ENERGY PRICES DURING THE 2000/2001 WINTER HEATING**

1 **SEASON IN PARTICULAR?**

2 A. Yes. Most specifically, I have been asked to document the increased home energy prices
3 facing low-income households for purposes of determining what adjustments, if any, should
4 be made to the excess shelter deductions used to calculate low-income Food Stamp benefits.
5 To date, I have calculated the adjustments to be made in Massachusetts, New Jersey,
6 Kentucky, Michigan, Minnesota, Iowa, Arkansas, Louisiana, Mississippi and Texas. In
7 addition, I have been asked to document increased home energy prices facing low-income
8 households for purposes of adjusting the utility allowances provided to tenants of public
9 and subsidized housing.

10
11 **Q. HAVE YOU EVER HAD OCCASION TO ADDRESS ISSUES RELATING TO THE**
12 **STRUCTURE OF LEVELIZED BUDGET BILL PLANS IN PARTICULAR?**

13 A. Yes. I worked with the Consumer Advocate for the City of Philadelphia, and with
14 Philadelphia Gas Works, in 1995 to develop an appropriate levelized budget billing plan for
15 that large municipal gas utility. In addition, the low-income programs which I design for
16 both utilities and state agencies have levelized budget billing as one critical aspect of their
17 operation. I have developed such programs for states such as New Hampshire, New Jersey,
18 Maryland, Pennsylvania, Iowa and Colorado.

19
20 **Q. PLEASE DESCRIBE THE PURPOSE OF YOUR TESTIMONY TODAY.**

21 A. The purpose of my testimony is to consider the impact of increasing natural gas prices on
22 Illinois households and the efficacy of mitigating those harms through the levelized budget
23 billing proposal advanced by the Cook County State's Attorney. I also address certain issues
24 regarding the proposed suspension of utility credit reporting during this period of
25 extraordinary natural gas prices.

1
2 **PART I. OVERVIEW.**

3 **Q. WHAT TYPE OF INCREASED GAS BILLS DID ILLINOIS CONSUMERS FACE**
4 **THIS WINTER?**

5 A. Residential consumers paid both higher prices, and higher bills, for natural gas this winter
6 than they have in the recent past. In January 2001, the Energy Information Administration
7 of the U.S. Department of Energy reported that "assuming normal weather, residential
8 customers will pay about 70 percent more for their natural gas bills this winter than last
9 winter." "The rise in wellhead prices since last winter," EIA said, "is expected to increase
10 the average gas prices to residential consumers by about 45 percent."¹¹ According to EIA's
11 most recent analysis: "The length of time that gas prices have remained so high is
12 unprecedented."¹² The immediate cause of the increase in retail gas prices is not difficult to
13 identify. In its February 2001 *Monthly Energy Review*, EIA reported that "the estimated
14 average wellhead price of natural gas for December 2000 was \$6.35 per thousand cubic
15 feet, 189 percent higher than the December 1999 price."
16

17 **Q. WILL INCREASED NATURAL GAS PRICES RESULT IN INCREASED**
18 **COLLECTION PROBLEMS FOR ILLINOIS UTILITIES?**

19 A. Yes. One of the primary results of increased natural gas bills will be an increase in natural
20 gas collection problems for Illinois utilities. These collection problems will include an
21 increased number of accounts in arrears, an increase in the dollars of arrears, increased
22 defaults on deferred payment arrangements, and, ultimately, an increase in the accounts that

¹¹ Energy Information Administration, U.S. Department of Energy (January 2001). *Residential Natural Gas Prices: What Consumers Should Know*.

¹² Energy Information Administration (February 25, 2001). *Short Term Energy Outlook, March 2001*, at 4, U.S. Department of Energy: Washington D.C.

1 are written off as uncollectible.

2
3 **Q. WHY WILL INCREASED GAS BILLS RESULT IN INCREASED PAYMENT**
4 **TROUBLES?**

5 A. These increased payment troubles arise because utility bill payment troubles are positively
6 associated with the energy burdens which households face. A reasonable energy burden is
7 generally recognized to range from six to eight percent of a household's income. The fly-up
8 in the price of natural gas is pushing home energy burdens further and further beyond this
9 affordable range.

10
11 **Q. ARE THESE INCREASED PAYMENT TROUBLES THE ONLY PROBLEM**
12 **THAT WILL ARISE FROM THE INCREASED NATURAL GAS BILLS FACING**
13 **CUSTOMERS?**

14 A. No. These payment problems tell not even half of the story of unaffordable home energy
15 bills. Research that I performed in 1999 documented that nonpayment is not the only
16 impact of inability-to-pay based on excessive home energy burdens. In addition, because of
17 unaffordable burdens, low-income consumers in particular are forced to make unreasonable
18 budget decisions between competing household necessities (e.g., heat or eat), and are forced
19 to engage in a wide variety of dangerous and/or unhealthy activities in an effort to keep
20 paying their utility bills. In addition, these energy burdens have been found to represent an
21 impediment to low-income consumers taking constructive actions to address their inability-
22 to-pay.³¹ I will discuss this work in more detail below.

23

³¹ Roger Colton (May 1999). *Measuring LIHEAP's Results: Responding to Home Energy Unaffordability*,
Fisher, Sheehan and Colton, Public Finance and General Economics: Belmont, MA.

1 The "negative actions" identified in my 1999 research included practices, among others,
2 such as increasing high cost debt by purchasing food and fuel on credit cards; turning down
3 thermostats to dangerously low temperatures; using alternate (and unsafe) energy sources
4 for heating (such as ovens, burners, and charcoal grills); burning "alternative fuels" in
5 fireplaces and wood stoves, including furniture, clothes, siding, used tires, doors, and
6 woodwork; turning off water heaters; abandoning homes for weeks at a time during cold
7 weather; engaging in dishonest or unlawful activities, such as writing bad checks and
8 tampering with meters; foregoing the purchase of food, medical care, dental care and
9 medicine; and foregoing the payment of other bills (such as rent and water).

10
11 **Q. HAVE THESE PROBLEMS EVER BEEN DOCUMENTED BY ANYONE ELSE?**

12 **A.** Yes. The Iowa State Department of Human Rights further documented the impacts of these
13 excess home energy burdens. According to a study performed by that agency, recipients of
14 federal fuel assistance -- called the Low-Income Home Energy Assistance Program
15 (LIHEAP) -- exhibited the following characteristics in the 1999/2000 winter heating season
16 as a result of unaffordable home energy bills:

- 17 ♦ Over 12 percent went without food to pay their home heating bill. Projected to the
18 total participating LIHEAP population, that meant that about 7,600 low-income
19 households (representing 20,000 Iowa citizens) went without food at times as a
20 result of unaffordable home heating bills. Nearly one-in-ten Iowa low-income
21 households with children under the age of 6 went without food at times in order to
22 have sufficient funds to pay their home heating bills. More than one-in-ten
23 households with at least one person over age 65 went without food;
- 24
25 ♦ More than one-in-five went without medical care to pay for heating bills. This may
26 mean not seeking medical assistance when it was needed, not filling prescriptions
27 for medicine when a doctor has prescribed it, and/or not taking prescription
28 medicines in the dosage ordered by the doctor;
- 29
30 ♦ Almost 30 percent reported that they did not pay other bills, but did not elaborate as
31 to which bills were not paid. In addition to not paying other bills, many low-income
32 households incurred debt in order to pay both their home heating bills and other

1 basic necessities: borrowed from friends and/or neighbors; used credit cards to pay
2 for food and other necessities, or did not pay the heating bill.¹⁴
3

4 Iowa served 62,000 households with winter heating assistance. Each one percentage point,
5 therefore, represents more than 600 households (nearly 2,000 persons).
6

7 **Q. WHAT REMEDY IS APPROPRIATE TO THESE PROBLEMS THAT YOU HAVE**
8 **IDENTIFIED?**

9 A. The proposal advanced by the Cook County State Attorney Office (CCSAO) that any
10 budget billing program should allow a customer to spread budget payments for current bills
11 over more than 12 months should be adopted.
12

13 **Q. WILL LEVELIZED BUDGET BILLING PLANS OF GREATER THAN 12**
14 **MONTHS OFFER BILL RELIEF TO CUSTOMERS WHO MIGHT OTHERWISE**
15 **HAVE DIFFICULTY IN PAYING THOSE BILLS?**

16 A. Yes. The impact of levelized budget billing plans can be seen through a consideration of
17 several different scenarios. Assume that annual natural gas bills which include the
18 2000/2001 winter heating season (with its increased bills) are \$840, a 75% increase over a
19 \$480 bill from the immediately preceding year. Assume further that the annual natural gas
20 bills which will include the 2001/2002 winter heating season increase another 50% to
21 \$1,260 ($\$840 * 1.5 = \$1,260$). Consider the payment implications of the proposed 18-month
22 options versus the normal 12-month levelized payment options.
23

24 Under these scenarios, a 12-month levelized monthly budget billing payment would jump

¹⁴ Joyce Mercier, Cletus Mercier and Susan Collins (June 2000). *Iowa's Cold Winters: LIHEAP Recipient Perspective*, Iowa Department of Human Rights: Des Moines (IA).

1 from \$40 per month ($\$480/12$) to \$70 per month ($\$840/12$) in the first year of increased
2 prices. The 12-month levelized monthly budget billing payment option would increase
3 further to \$105 per month in the second year of increased prices.
4

5 In contrast, under the 18-month proposal, consumers would pay a levelized monthly bill of
6 \$47 per month ($\$840/18$). Consumers would pay \$70 per month for the second year of
7 increased prices ($\$1,260/18$). As a matter of arithmetic, if an annual bill is spread over 18
8 months rather than 12 months, each monthly payment will be lower. An 18-month plan is
9 used solely for illustration.
10

11 **Q. WON'T THESE PAYMENT TERMS SIMPLY RESULT IN CONSUMERS**
12 **FACING UNAFFORDABLE BILLS NEXT YEAR RATHER THAN THIS YEAR?**

13 **A.** No. Some concern has been expressed that an extended levelized budget plan would only
14 result in consumers digging themselves into a hole that would defer payment troubles to
15 next year rather than this year. If applied to the illustration above, this concern would
16 appear to relate to months 13 through 18, when a consumer would be paying both Year 1
17 budget billing amounts ($\$47/\text{month}$) plus Year 2 budget billing amounts ($\$70/\text{month}$). The
18 total of these two payments during those six months ($\$47 + \$70 = \$117$), however, is not
19 significantly higher than the 12 month Year 2 levelized billing option of \$105. And, even
20 given the combined payments during those six months, given the deferral of some dollars
21 into the third year (months 25 through 30), the total annual customer payment ($6 \times$
22 $\$117/\text{month}$) + ($6 \times \$70/\text{month}$) = \$1,122) is still nearly \$140 less than the total annual
23 payment would have been had the customer spread the second year of increased prices over
24 only 12 months ($12 \times \$105/\text{month} = \$1,260$).
25

1 The fact remains that during this period of dramatically higher natural gas prices, deferring
2 some portion of the excess gas prices to a later time period makes the monthly payments
3 more affordable. While it is easy to posit that spreading payments over 18 months will
4 result in consumers digging themselves in deeper, the numbers simply do not bear this
5 result out.

6
7 **Q. IS THERE ANY OTHER REASON TO BELIEVE THAT THE EXTENDED**
8 **LEVELIZED BUDGET PAYMENT PLAN DOES NOT SIMPLY DEFER THE**
9 **UNAFFORDABLE PAYMENTS UNTIL A LATER DATE?**

10 **A.** Yes. In each of the scenarios posited above, the gas cost increase in Year 2 is assumed to
11 occur instantaneously and at the beginning of the new budget billing period. In fact, this is
12 not likely to be the case. The continuing gas price increases in the 2001/2002 year will
13 occur over time and will be factored into the 18 month budget billing amount over time,
14 rather than immediately at the beginning of the year. As a result, not even the \$12 "extra"
15 payment over six months will be likely to occur.

16
17 **PART II. IMPLEMENTATION ISSUES.**

18 **Q. PLEASE STATE THE PURPOSE OF THIS PART OF YOUR TESTIMONY.**

19 **A.** This part of my testimony will address several issues arising from implementation of an
20 extended levelized budget billing plan for Illinois natural gas utilities. These
21 implementation issues involve questions of how such a program would operate in practice.

22
23 **A. Who Should be Allowed to Enroll.**

24 **Q. PLEASE DESCRIBE WHAT LIMITATIONS YOU WOULD PLACE ON WHAT**
25 **CUSTOMERS WOULD BE ALLOWED TO ENROLL IN BUDGET BILLING.**

1 A. Extended levelized budget billing should be made available to all customers, irrespective of
2 their current credit standing. Implementation of these rules with a limitation that budget
3 billing be limited exclusively to customers *in good credit standing* would interfere with
4 addressing the harm which the proposed rules are intended to address. Denying budget
5 billing plans to customers that have previously suffered a disconnection of service for
6 nonpayment, or to customers that are currently on a deferred payment arrangement, does
7 not make budget billing plans easily available.

8

9 Q. PLEASE EXPLAIN YOUR CONCERN ABOUT LIMITING LEVELIZED
10 BUDGET BILLING PLANS TO CONSUMERS WITH GOOD CREDIT
11 STANDING.

12 A. My concern about the exclusion for accounts that have been subject to disconnection, or
13 that have incurred arrears, is two-fold.

14

15 First, a "good credit standing" standard could be used to disproportionately exclude low-
16 income customers from participation in the proposed budget billing program. While it is
17 incorrect to assume that low-income status and payment-troubled status go hand-in-hand, it
18 is generally recognized that low-income customers have *greater* difficulties in paying their
19 home energy bills than do their higher income counterparts. Census data, for example,
20 supports this conclusion. One 1995 census data report,⁵¹ which is based on 1992 data,
21 found that while 9.8% of non-poor families could not pay their utility bills in full, 32.4% of
22 poor families could not do so. According to the Census Bureau, while 1.8% of non-poor
23 families had their electricity or natural gas disconnected for nonpayment, 8.5% of poor
24 families suffered this same deprivation. This disconnection ratio increased even further for

⁵¹ U.S. Census Bureau, *Extended Measures of Well-Being: 1992*, P70-50RV (November 1995).

1 welfare recipients, to 10.5%.⁶¹ Such a result would not address a large part of the
2 affordability concerns that the CCSAO raised in its original emergency petition.

3
4 Second, the very purpose of the emergency petition filed by CCSAO is to respond to the
5 payment difficulties caused by the dramatically higher natural gas prices identified in that
6 petition. The very reason for the petition is that customers are having difficulty in paying
7 the extraordinarily high increases in natural gas bills this winter. If, however, these
8 payment difficulties are used, up-front, to exclude customers from the budget bill process,
9 then the budget billing process cannot address the very issue it is intended to address.
10 Sound policy involves the Commission adopting a program to address customer difficulties
11 in paying bills, not allowing enrollment in that program to be denied to those customers
12 who have a demonstrated payment difficulty.

13
14 In sum, "good credit standing" should not be a precondition to a customer enrolling in a
15 budget billing plan. More specifically, neither the presence of arrears nor the existence of a
16 prior service disconnection for nonpayment should disqualify a customer who otherwise
17 seeks to enroll in budget billing.

18
19 **Q. IS THERE ANY PARTICULAR HARM FROM DISPROPORTIONATELY**
20 **EXCLUDING LOW-INCOME CUSTOMERS FROM THE ADVANTAGES OF**
21 **EXTENDED LEVELIZED BUDGET BILLING?**

22 **A.** Yes. Low-income customers are the customers who are likely to benefit the most from
23 budget billing. Consider the income of a typical Illinois LIHEAP recipient. According to

⁶¹ At the time of the Census study, welfare was known as Aid to Families with Dependent Children (AFDC). The program has since been renamed and is now known as Temporary Aid to Needy Families (TANF).

1 the 1996 LIHEAP Report to Congress, published in September 2000, Illinois LIHEAP
2 recipients fell into the income ranges shown in Schedule RDC-1. Given these incomes, the
3 average monthly income of an Illinois LIHEAP recipient would be roughly \$500
4 (\$5,700/year). A natural gas bill of \$250 to \$300 in a single winter month would represent
5 50% to 60% of the household income for that month. The advantages of levelizing the
6 natural gas bill and spreading it over 12 months, including those non-heating months in
7 which gas bills are substantively lower, are clear. Sound public policy would promote
8 easing the entry of these customers into budget billing rather than erecting barriers to such
9 entry. It would make little sense to adopt a budget-billing program and then to erect
10 barriers that would have the practical effect of disproportionately denying participation to
11 the very class that would benefit the most from the program.

12
13 **B. Enrollment Period for Budget Billing.**

14 **Q. PLEASE DESCRIBE YOUR RECOMMENDATION AS TO THE ENROLLMENT**
15 **PERIOD FOR LEVELIZED BUDGET BILLING PLANS.**

16 **A.** Illinois gas utilities should permit customers to enroll in a budget payment plan at any time
17 of the year. No reason exists to limit enrollment to months in which an enrolling customer
18 is likely to generate a bill credit in the early stages of the budget plan. An appropriately
19 designed budget plan will generate a bill balance of \$0 by the last month of the plan. That
20 \$0 budget balance should exist irrespective of the start date of the plan. The purpose of the
21 budget-billing plan is to *levelize* bill payments, not to require customers to prepay their
22 bills.

23
24 **Q. DO YOU DISTINGUISH BETWEEN PERMITTING CUSTOMERS TO ENROLL**
25 **AT ANY TIME AND ACTIVELY SOLICITING ENROLLMENT?**

1 A. Yes. Despite the proposal to *permit* customers to enter into levelized budget bills at any
2 time during the year, Illinois utilities should market the budget billing program, and should
3 aggressively solicit such participation, both when it generates the maximum benefit to the
4 company and when it generates the maximum benefit to the customer. Active solicitation
5 of program enrollment should occur during the times when the program will operate most
6 effectively and efficiently. An active program solicitation period during the low-cost spring
7 months, allowing a customer to generate credit balances to be applied against high cost
8 winter bills is reasonable.

9
10 However, experience counsels that the best time to focus customer attention on the benefits
11 of levelized winter bills is in the late fall and early winter months. An active program
12 solicitation period during that time period as well can be expected to generate high
13 customer enrollment and substantial benefits in shaving the peak off of winter bills. If an
14 active solicitation campaign is to occur, campaigns should occur in each of those periods.

15
16 **C. Enrollment Mechanism.**

17 **Q. PLEASE DESCRIBE HOW CUSTOMERS SHOULD BE PERMITTED TO**
18 **ENROLL IN A BUDGET BILLING PLAN.**

19 A. Illinois gas utilities should permit customers to enroll in a budget billing plan directly on
20 their bills. In proposing these extended budget billing rules, the intent is to make budget-
21 billing plans widely (and easily) available. There is no question but that some customers
22 may not wish to participate in a levelized budget billing plan, extended or otherwise. Aside
23 from those nonparticipants, however, there are other nonparticipants which are excluded
24 because of a variety of personal and institutional *barriers* which *prevent* enrollment. These
25 barriers might include:

- 1
- 2 ♦ **Lack of effective knowledge:** The lack of "effective knowledge" is one such
- 3 barrier. While consumers may indicate an awareness of energy assistance, for
- 4 example, their knowledge is often not sufficient to allow them to act. Many
- 5 consumers, for example, who say they 'know about' energy assistance cannot name
- 6 a single program.
- 7
- 8 ♦ **Lack of program awareness:** Similarly, many *elderly* poor do not know of, and
- 9 thus do not use, existing energy intervention programs designed for their benefit.
- 10 Since no intervention program can be effective unless it is known and used, the
- 11 degree to which eligible persons are aware of and utilize such programs is
- 12 important.
- 13
- 14 ♦ **Misperceptions as to eligibility:** Many eligible nonparticipants have
- 15 misperceptions regarding their eligibility for a program. These households might,
- 16 for example, mistakenly believe that their income or assets are too high to entitle
- 17 them to receive program benefits, or that some other program requirement precludes
- 18 their participation. Persons who have been found ineligible for one program
- 19 (however unrelated to energy) are less likely to apply for fuel assistance.
- 20

21. As can be seen, there is an abundance of information about how nonparticipation in
22 programs such as levelized budget billing plans can result from barriers to participation as
23 well as from either a lack of need or a lack of desire to participate. The General Accounting
24 Office once said about Food Stamp enrollment: "From a policy viewpoint, an informed
25 decision on the part of an eligible household *not* to participate in the program is not an
26 issue. Lack of information about the program, however, and at least some program and
27 access problems can and should be remedied."¹⁷ The same can and should be said about a
28 utility's extended levelized budget billing program. Allowing customers to enroll directly
29 on their bill addresses these enrollment issues.

30

¹⁷ General Accounting Office, *Food Stamp Program: A Demographic Analysis of Participation and Nonparticipation*, at 22 (January 1990).

D. The Outreach and Enrollment Process.

Q. WHAT TYPE OF SOLICITATION AND ENROLLMENT PROCESS DO YOU RECOMMEND?

A. In promoting a program such as the proposed budget billing program, it is the *type* and nature of solicitation that is important. Bill inserts, for example, have historically been found to be an ineffective mode of communication to large segments of a utility's customer population. So, too, have mass media campaigns been found to be ineffective at educating and enrolling customers in programs. One well-established premise of public communication/education campaign design is that mass mediated messages are rarely effective. Media-based campaigns tend to have low penetration levels, with a typical public service announcement campaign producing awareness rates as low as 5 - 10%.

Illinois utilities should be required to submit an education and solicitation plan. All parties should be provided an opportunity to respond to that proposal to seek to ensure that the solicitation process is reasonably designed to be effective in informing all customers who may benefit from the budget billing program not only of the existence of the program, but of the mechanisms available to enroll in the program as well.

Q. HOW MIGHT COMMUNITY-BASED ORGANIZATIONS ASSIST IN THE ENROLLMENT PROCESS?

A. Companies should be *strongly* urged to involve community-based organizations in their outreach and enrollment processes. It is through these organizations that consumer education most effectively gets out to the public. A study of methods for marketing energy conservation programs to the elderly, one report noted, found that "many of the elderly did

1 not *trust* the programs." (emphasis added).¹⁸¹ The AARP report found that in designing
2 outreach efforts, "the specific informational techniques used were less important than the
3 amount of trust [which] potential participants had in the sponsoring organization." Research
4 in Philadelphia also found that "trust" is directly correlated with income and socio-
5 economic status. An April 1997 report by The Pew Charitable Trusts found that education
6 and age are other important factors. Older, more educated and more affluent respondents
7 are more trusting than the less schooled and poorer. Poorly educated young whites and
8 young blacks are extremely distrustful. The Pew study found that few Philadelphia
9 residents trusted the news media (either print or broadcast). Conversely, the most trusted
10 institutions are ones that involve personal contact. Four of the five most trusted institutions
11 in the city included family members (#1), people at church (#3), your boss (#4), and co-
12 workers (#5). Any solicitation plan for the proposed budget billing program should include
13 line item expenditures directed toward incorporating community-based organizations into
14 the process.

15
16 **Q. IS THERE REASON FOR UTILITIES TO DEVELOP SPECIAL PARTNERSHIPS**
17 **WITH THE FEDERAL FUEL ASSISTANCE PROGRAM?**

18 A. Yes. One entire group of institutions that have been dealing with the historically high
19 natural gas prices identified in the Cook County Emergency Petition is the group of
20 community action agencies, state LIHEAP staff, and other similar service organizations and
21 agencies that are in the front line of contact with customers who cannot afford to pay these
22 high bills. Each of those community-based organizations should have readily available a

¹⁸¹ Kathryn Porter, *Participation by the Elderly in the Low Income Home Energy Assistance Program*, at 26, prepared by Center on Budget and Policy Priorities for the American Association of Retired Persons (AARP) (December 1989) citing, Linda Berry, et al., *Marketing and Design of Residential Conservation Programs for the Elderly*, Oak Ridge Laboratories (February 1988).

1 budget billing enrollment form acceptable in form to the Commission. The staff of such
2 agencies should be not only permitted, but encouraged, to counsel persons who come in for
3 additional assistance that one of the *first* actions for the customer to take in response to high
4 natural gas bills is to enroll in the budget billing program. Moreover, each utility should
5 ensure that the staff of such agencies can implement such enrollment immediately and on-
6 site with no further steps needed by the customer.

7
8 **Q. IS THERE ANY WAY TO AUTOMATE THIS PROCESS?**

9 A. While not within the province of the Commission to direct, the Commission should *request*
10 that the Illinois LIHEAP agency include with all future LIHEAP applications a consent
11 form that would allow the receipt of LIHEAP to be deemed a consent to move the LIHEAP
12 recipient to budget billing. When an Illinois utility receives a LIHEAP payment, the
13 company can post the LIHEAP payment to the customer account and, at the same time,
14 enroll the customer in the levelized budget billing program.

15
16 **Q. HAS THIS PROCESS OF AUTOMATICALLY ENROLLING A HOUSEHOLD**
17 **WHO DOES ONE THING IN A SEPARATE PROGRAM AS WELL BEEN USED**
18 **IN ANY OTHER SETTING?**

19 A. Absolutely. It is a process called "adjunctive eligibility." This eligibility has already been
20 adopted to link SSI with Medicaid. Federal law now authorizes that enrollment in SSI will
21 automatically establish a person's eligibility for Medicaid. In addition, the federal WIC
22 program uses what it refers to as "adjunctive eligibility." In 1989, Congress authorized
23 WIC agencies to begin to accept an applicant's documented participation in Medicaid, Food
24 Stamps and AFDC (now known as TANF) as evidence of income eligibility for WIC.
25 Today, fully two-thirds of WIC participants are enrolled through the adjunctive eligibility

1 process.¹⁰⁹

2
3 **Q. ARE THERE OTHER OUTREACH MECHANISMS THAT ILLINOIS UTILITIES**
4 **SHOULD USE?**

5 A. In expanding the organizations and institutions that are allowed to engage in budget billing
6 solicitation and enrollment activities, Illinois utilities can benefit from the lessons learned in
7 other contexts. One federal agency charged with improving enrollment in children's health
8 insurance programs (Health Research Services Administration-HRSA), for example,
9 emphasizes the use of "peer outreach." "Peer outreach models have proven their
10 effectiveness in a wide range of settings and with a variety of underserved and hard-to-serve
11 populations. Their advantage is that individuals from within the community are more likely
12 than outsiders to identify with and be trusted by the community. The activities of peer
13 educators, community health workers... and lay health advisors have repeatedly proven that
14 the strength of the community lies within its own natural leaders."¹¹⁰ HRSA recommends
15 recruiting "gatekeepers" from the community and using community members as volunteers
16 or paid staff wherever possible.

17
18 In this sense, Illinois utility officials may wish to consider seeking closer ties with the faith-
19 based community. While little work has been found documenting the involvement of the
20 faith-based community in helping to provide outreach and enrollment services for programs
21 such as LIHEAP, an April 1998 report by the Center on Nonprofits and Philanthropy
22 examined the work of religious congregations in Washington D.C. and reported that:

¹⁰⁹ U.S. Department of Agriculture, Food and Nutrition Service, Office of Analysis and Evaluation, *Study of WIC Participant and Program Characteristics 1996: Final Report*, at 47.

¹¹⁰ HRSA (May 2000). *Reaching Our Children: A Compendium of Outreach Models*, Focus on Child Health, Health Resource and Service Administration: Washington D.C.

1 "Almost 95 percent of responding congregations provide some type of service or program.
2 Of these, more than 75 percent offer an emergency service such as food, financial
3 assistance, clothing, day or overnight shelter, or a soup kitchen. Most congregations
4 provide short-term emergency services, with almost 60 percent offering emergency food.
5 Nearly half of all responding congregations offer some type of family service such as child
6 care, parent education, or senior services."¹¹¹ The use of community-based organizations,
7 and peer outreach strategies, to help address the payment crisis generated by today's
8 extraordinarily high gas bills through enrollment in budget billing program, is merited in
9 Illinois.

10
11 **E. Calculating the Levelized Bill for LIHEAP Recipients.**

12 **Q. ARE THERE SPECIAL FACTORS THAT SHOULD BE CONSIDERED IN**
13 **PLACING A LIHEAP RECIPIENT ON A LEVELIZED BUDGET BILLING**
14 **PLAN?**

15 **A.** Yes. Special budget billing calculations should be made available to customers who both
16 receive LIHEAP and ask to receive a levelized monthly budget bill. Utilities should
17 calculate the budget amount for LIHEAP recipients by taking the total bill as calculated in
18 standard circumstance, and subtract the LIHEAP payment from that total bill, before
19 determining the levelized budget bill amount. An illustration may be helpful. Assume a
20 utility calculates a \$1,200 annual bill for a LIHEAP recipient that receives a \$300 LIHEAP
21 payment. The company would apply the \$300 LIHEAP payment to the annual bill (making
22 it \$900) and levelize the resulting \$900 bill into 12 equal monthly installments.

23
¹¹¹ Tobi Jennifer Printz (April 1998). *Faith-Based Service Providers in the Nation's Capital: Can They Do More?* Charting Civil Society: A Series by the Center on Nonprofits and Philanthropy, The Urban Institute: Washington D.C.

1 **Q. WHAT DOES THIS ACCOMPLISH?**

2 A. This process avoids the LIHEAP payment becoming one of the customer's monthly
3 payments (in lieu of customer funds being used in the month in which LIHEAP is
4 received). A LIHEAP payment should be used to reduce *each* levelized monthly bill to a
5 more affordable amount. In the above example, a failure to treat LIHEAP in this fashion
6 would result in the \$300 LIHEAP payment being applied to a customer account. That
7 LIHEAP payment would represent three of the \$100 levelized monthly payments. The
8 customer would thus be excused from paying during these three months out of the
9 customer's resources. The practical effect is that the customer is looking at high monthly
10 bills again in the months after the LIHEAP credit is exhausted. These higher bills will be
11 faced without the prospect of additional public assistance being available. The integration of
12 LIHEAP with the budget billing program should result in a LIHEAP recipient making
13 smaller payments *every month* as a result of the levelized monthly budget billing program.

14
15 **F. Adjusting the Budget Estimate.**

16 **Q. SHOULD A UTILITY BE PERMITTED TO PERIODICALLY ADJUST THE**
17 **"LEVELIZED" AMOUNT UNDERLYING A LEVELIZED BUDGET BILLING**
18 **PLAN?**

19 A. It is reasonable to expect that, from time-to-time during the year, an Illinois utility might
20 want to re-evaluate any particular customer's Budget Plan amount. Such adjustments help
21 to prevent a customer from incurring either a large bill that will need to be paid at the end of
22 the year or a large credit that is beyond that which would have been necessary to pay the
23 total annual bill. These adjustments should only be made if they will substantively affect
24 the ultimate ability of the customer to pay any deficiency at the end of the year.
25 Accordingly, a proposal to make adjustments only if the adjustment exceeds certain dollar

limits is reasonable.

Q. IS THERE ANY LIMITATION THAT SHOULD BE PLACED ON THIS PERMISSION?

A. Adjustments should *not* be based on past estimated bills. Many large urban utilities routinely estimate bills for their inner-city customers. These estimated bills are frequently erroneously high. Changes in a levelized Budget Bill amount should not be based on over-estimated bills. Adjustments to budget billing amounts should be limited to bills based on actual meter readings for the customer who receives that bill.

Q. IS THERE ANY OTHER LIMITATION THAT SHOULD BE PLACED ON SUCH ADJUSTMENTS?

A. Yes. In addition, the Commission should place clear limits on when and on how many times adjustments can be made. One advantage of the budget bill is not simply to spread payments of the higher bill over a longer period of time, but to set a *known* bill amount that customers can budget for. If a utility begins to change the budget billing amount four or five or six times a year, the customers lose the advantage of the "budget" part of the levelized monthly budget billing payment. In general, utilities should be limited to allowing adjustments to twice a year (at months 4 and 8 of the budget billing Plan).

G. Removal from Levelized Budget Billing Plans.

Q. WHAT LIMITATIONS SHOULD BE PLACED ON REMOVING CUSTOMERS FROM A LEVELIZED BUDGET BILLING PLAN?

A. A customer should not be removed from his or her budget billing plan for nonpayment so long as that customer has demonstrated a good faith effort to make regular payments toward

1 his or her bill. Rules requiring removal for nonpayment of two payments during a twelve
2 month period, or even two consecutive payments during a twelve month period,
3 unreasonably restrict the ability of budget plans to fulfill the function that they are designed
4 to fulfill.

5
6 **Q. WHY SHOULD SUCH A REMOVAL NOT OCCUR?**

7 A. Remember that a budget payment plan only levelizes a bill. It does not address the
8 underlying affordability of the bill. Nor does it redress any mismatch between the receipt of
9 customer bills and the receipt of customer income. Low-income customers, in particular,
10 may make late or partial payments. Despite these late or partial payments, few of these
11 customers will fall substantially behind. Removing a customer who misses two payments in
12 a 12 month period, or even one who misses two consecutive payments, introduces not only
13 the possibility, but the probability, that many low-income customers will be removed from
14 the budget billing program even if they somehow struggle to basically keep up.

15
16 Problems arise because of the way in which customer payments are applied to utility bills.
17 Payments are applied to the oldest bill first. Assume, therefore, that in Month 1, a customer
18 receives a \$100 bill and makes a \$0 payment. This customer has missed that payment.
19 Assume, further, that in Month 2, this same customer receives a \$100 bill, and makes a
20 \$100 payment. What the customer has done is to make the Month 1 payment, but, in so
21 doing, he or she has "missed" his or her second consecutive payment. As a result, even
22 under a "miss two consecutive payment" program rule, this customer would be subject to
23 removal from the budget billing program.

24
25 **Q. WHEN *SHOULD* A UTILITY BE PERMITTED TO REMOVE A CUSTOMER**

1 **FROM BUDGET BILLING FOR NONPAYMENT?**

2 A. Removal from the budget billing program should occur only upon evidence of a pattern of
3 missed payments indicating that the customer is going to fall further and further behind on
4 the dollars owed because of the lack of a good faith effort to pay each monthly bill. In
5 assessing whether a good faith effort to pay has been made, the utility should consider the
6 number of payments made, the timeliness of payments, the regularity of payments, and the
7 completeness of payments. Responding to a customer who is struggling to maintain utility
8 payments by making a good faith effort to pay by removing that customer from a budget
9 billing plan and imposing high and highly volatile monthly bills as a result will rarely
10 improve customer payment patterns. A good faith effort to pay should be rewarded with a
11 continuing budget billing option that will maximize the probability that the customer will
12 succeed over time.

13
14 **H. Year-End Account Balances.**

15 **Q. HOW SHOULD UTILITIES TREAT YEAR-END ACCOUNT BALANCES?**

16 A. In those situations where customers end a year having not been billed for the entire 12
17 months of consumption through the budget billing amount (with a bill balance), year-end
18 balances should be rolled over into the next year's budget payment. In addition, credit
19 balances should not be treated differently from account balances. A symmetry of treatment
20 between account balances and credit balances should be created. If a customer has the
21 obligation to pay year-end account balances, those customers should have at least the option
22 of receiving cash payment of any credit balance that may arise.

1
2 **I. Interaction of Budget Billing and Deferred Payment Plans.**

3 **Q. WHAT INTERACTION SHOULD OCCUR BETWEEN LEVELIZED BUDGET**
4 **BILLING PLANS AND DEFERRED PAYMENT PLANS THROUGH WHICH**
5 **ARREARS ARE RETIRED?**

6 A. A limit should be placed on the extent to which an arrears payment can increase a
7 customer's Budget Bill. An appropriate limitation is that arrears will be spread over the
8 budget billing period, provided that the total payment (budget bill plus arrears) does not
9 exceed 150% of the Budget Plan payment. Under this approach, if the Budget Plan payment
10 is \$100 a month, the period over which the arrears can be paid will need to be extended
11 until the arrears payment is no more than \$50 (50% of the Budget Plan payment). And,
12 there would always be a minimum twelve-month repayment period.

13
14 **Q. WHY IS THIS APPROPRIATE?**

15 A. In adopting this limitation, the Commission should be cognizant of the fact that a customer
16 who has an arrears sufficiently large such that his or her monthly repayment amount would
17 be equal to more than half of the budget bill is someone who is a considerable number of
18 months behind. It makes no sense to enter into a Budget Plan to make bills more affordable
19 and then to completely emasculate the purpose of that plan by adding an arrears payment
20 that would increase the bill to unaffordable levels.

21
22 **Q. ARE YOU PROPOSING SOME TYPE OF ARREARAGE FORGIVENESS HERE?**

23 A. No. This proposal does *not* involve, in any way, shape or fashion, arrears forgiveness. The
24 proposal merely reflects that an arrears that is so substantial that its repayment over 12
25 months would require a payment equal to more than 50% of the total current monthly bill

1 arises not only because a customer has not paid, but because a company has not collected.
2 Under such circumstances, the Company should provide sufficient flexibility in the terms of
3 a deferred payment agreement to reduce the arrears payment to a maximum of half the
4 budget-billing amount.
5

6 **PART III. RATEMAKING IMPLICATIONS**

7 **Q. SHOULD ILLINOIS GAS UTILITIES BE AUTOMATICALLY PERMITTED TO**
8 **IMPOSE A CARRYING CHARGE ON LEVELIZED BUDGET BILLING**
9 **PARTICIPANTS WHO CARRY AN ACCOUNT BALANCE?**

10 **A.** No. Proposals have been made to automatically include all carrying costs for any bill
11 balances created by levelized budget billing plans. Nicor, for example, stated that the
12 carrying costs associated with such budget billing plans were not included in its last base
13 rate case and that, as a result, it is entitled to recover whatever increased costs might arise
14 from the consumers causing the increased costs (to wit, the users of the budget billing
15 payment plan option). Nicor Initial Comments at 5. While a utility should be entitled to
16 recover any costs which it incurs from the persons causing the company to incur the costs,
17 an automatic finance charge imposed by regulation is an inappropriate mechanism for
18 determining the level and appropriateness of such a fee. The appropriate level and nature of
19 the carrying charge should be determined in a litigated rate proceeding before the
20 Commission.
21

22 As a general rule, a utility is not entitled to automatically and immediately recover any
23 particular cost that it incurs in providing service. Automatic adjustment clauses are strictly
24 limited. What a utility is entitled to receive is sufficient revenue to allow it to earn its
25 allowed rate of return. If a utility is earning its allowed rate of return, the composition of its

1 underlying expenses and revenues are largely outside regulatory concern. Merely because a
2 cost increases does not, without more, entitle a utility to recover that cost. For example,
3 recent increases in postal rates did not allow a utility to claim increased expenses to be
4 automatically factored into prices charged to consumers. Only when the balance between
5 costs and revenues becomes such that the utility believes its ability to achieve its allowed
6 rate of return is jeopardized, may the utility make its case for increased rates (along with its
7 case for the design of rates on how to collect that revenue). The decision on whether total
8 costs are such that earnings are placed in jeopardy and a rate case is necessary is, of course,
9 within the exclusive province of utility management.

10
11 In effect, any proposal to automatically and immediately impose a carrying charge on bill
12 balances associated with levelized budget billing plans is a single issue rate case. Such a
13 proposal seeks to isolate carrying costs as one cost component without consideration of any
14 other aspect of its cost of service. Single issue rate cases, whether explicit or implicit (such
15 as by automatically and immediately imposing a carrying charge) are inappropriate
16 ratemaking mechanisms.

17
18 Moreover, allowing a utility to automatically include a carrying cost on all budget billing
19 balances, without even *considering* whether some of those costs are currently in rates is
20 inappropriate. Nicor's comment, for example, that it does not currently include any carrying
21 costs for a budget billing plan in rates is not to the contrary. What would be needed is to
22 determine the working capital revenue requirement associated with the lead/lag days
23 currently experienced without the extended budget billing plans and to compare the
24 working capital revenue requirement associated with the lead/lag days experienced by the
25 utility with the extended budget billing plan. The incremental revenue requirement

1 associated with the budget billing, but only that incremental revenue requirement, could
2 appropriately be collected through a carrying charge. In any case, the level of the charge is
3 not subject to be established by rule. It not only might, but would likely, vary between
4 companies.

5
6 Finally, any proposal to automatically and immediately impose a carrying charge on bill
7 balances associated with levelized budget billing plans considers the expense impacts of the
8 bill balances without considering any offsetting expense impacts of such a billing option.
9 The entire purpose of the levelized billing option is to make bill payments more affordable
10 in light of the dramatic upsurge in natural gas prices. In the absence of such a billing
11 option, utilities could be expected to see increased arrears. These increased arrears would
12 yield both increased carrying costs and increased uncollectible accounts, even in the
13 absence of the levelized budget billing option. The levelized budget billing option is
14 designed to prevent (or at least mitigate) these higher arrears (and the costs associated with
15 those higher arrears). To allow utilities to collect the carrying costs without considering the
16 expense offsets that help to *improve* the utility's earnings would be inappropriate.

17
18 The imposition of a carrying charge is not *per se* inappropriate. There is, however, a right
19 way and a wrong way to determine the appropriate nature and level of such a carrying
20 charge. The proper mechanism for making such a determination is to require those utilities
21 seeking to impose a carrying charge to file a base rate case, to justify the need for increased
22 revenue to *maintain allowed earnings*, and to *cost-justify any rate design proposal* that
23 incorporates a cost-justified carrying charge for bill balances created by levelized budget
24 billing plans.

1 **Q. WILL THE INCREASED USE OF BUDGET BILLING PLANS LIKELY BE THE**
2 **SOURCE OF INCREASED UNCOLLECTIBLE ACCOUNTS?**

3 **A.** No. Nicor argues that offering longer periods over which to levelize payments will cause an
4 increase in uncollectible accounts. Nicor Initial Comments at 3-4. Nicor supports its
5 conclusion by urging, without presentation of supporting data, that the Company's level of
6 uncollectible accounts substantially increased after the Company agreed to institute longer
7 deferred payment arrangements. Aside from the fact that Nicor engages in the classic
8 logical fallacy, *post hoc ergo propter hoc*, Nicor does not support its assertion that the
9 increase in uncollectibles was caused by, or attributable to, the lengthened deferred payment
10 arrangements. It did not demonstrate that there were not other causes that might have
11 resulted in increased uncollectibles. It did not demonstrate that the increase in
12 uncollectibles came from those accounts that were provided longer deferred payment
13 arrangements. It did not demonstrate a connection between the dollars of arrears subjected
14 to lengthened deferred payment arrangements with the increased dollars of arrears that were
15 written off as uncollectible. It did not isolate the lengthened deferred payment
16 arrangements as the primary, let alone the exclusive, cause of the increased uncollectibles.
17 Asserting that increased uncollectibles were experienced in some time period that just
18 happened to occur after a decision was made to increase the length of deferred payment
19 arrangements establishes no particular connection, let alone any *causal* connection, between
20 the lengthened payment arrangements and the level of uncollectibles. This Nicor statement
21 does not support any opposition to the proposed levelized budget billing rules.

22
23 **PART IV. CREDIT REPORTING.**

24 **Q. PLEASE DESCRIBE THE OPERATION OF THE CREDIT REPORTING**
25 **REGULATION AT ISSUE IN THIS PROCEEDING.**

1 A. Aside from the initiative advanced regarding budget billing, the Commission should direct
2 Illinois utilities to suspend their credit reporting of delinquent accounts during this period of
3 extraordinary gas price increases. Providing credit reports on delinquent utility accounts to
4 the credit bureau serves no utility purpose. The only impact that such reports might
5 generate is to deny credit, or to increase the cost of credit, to customers who have difficulty
6 in responding to the extraordinary gas cost situation now facing Illinois. To knowingly
7 penalize customers due to these extraordinary circumstances appears to be punitive at best.
8 Utility credit reporting of unpaid bills during this emergency period of fuel price increases
9 should be suspended in Illinois until the Commission determines that the emergency giving
10 rise to these concerns is over.

11
12 Q. PLEASE EXPLAIN WHY CREDIT REPORTING SERVES NO UTILITY
13 PURPOSE.

14 A. The rationality of using credit reporting as a utility collection mechanism depends upon the
15 reason for nonpayment in the first instance. Empirical research that has been undertaken in
16 Pennsylvania, Wisconsin and Washington State supports the conclusion that customers who
17 do not pay their bills do so for reasons that are unrelated to credit reporting.

18
19 A late 1985 Pennsylvania State University (Penn State) study looking at payment troubled
20 households in Pennsylvania¹²⁾ debunked the myth that nonpaying households are
21 characterized by "deadbeats." The Penn State study found that "payment troubled
22 households are experiencing considerable socioeconomic stress when compared to the
23 pattern for the average (general) customer sample."¹³⁾ The study noted that families

¹²⁾ Hyman, et al., "Optimizing the Public and Private Effects of Utility Service Terminations," *Public Utilities Fortnightly*, at 29 (December 29, 1985).

¹³⁾ The statewide study examined representative samples of four groups of households involving over 1,800